

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/071,052 06/04/93 KREAMER

J 467312465

026386 HM12/0514
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.
THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES IA 50309-3993

EXAMINER

CRIARES, T

ART UNIT	PAPER NUMBER
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1617

DATE MAILED:

05/14/01

26

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 08/071,052	Applicant(s) Kreamer	Examiner Theodore J. Criares	Art Unit 1617
			

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Mar 2, 2001

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 11-29 is/are pending in the application.

4a) Of the above, claim(s) 11-26 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 27-29 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|--|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 20) <input type="checkbox"/> Other: _____ |

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CLAIMS 11-29 ARE PRESENTED FOR EXAMINATION

Applicant's arguments filed March 2, 2001 have been fully considered but they are not persuasive.

The amendment to the specification has not been entered. Applicant alleges that the present application is a continuation of SN 07/746,615, filed August 19, 1991 and abandoned ^(EXHIBIT A) December 15, 1992, which is a continuation of SN 07/317,422, filed March 3, 1989, and ^(EXHIBIT B) abandoned August 22, 1990. The applications are not therefore continuation applications but are Supplemental continuation applications.

The earliest priority date available to the applicant is the filing date of the current application, June 4, 1993.

Therefore, Hannekens reference with a filing date of October 1, 1990 has priority over the filing date of the present application, since there is a hiatus from December 15, 1992 and June 4, 1993.

Claims 27-29 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Hannekens (5,871,766).

Hannekens in the Abstract and at column 3, lines 66-67 teaches the compost of beta-carotene and aspirin. At column 6, lines 57-67 it is taught that a combination of beta-carotene (which is disclosed at column 2, lines 20-21 to be a provitamin of Vitamin A) and aspirin in the

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amounts of 50 mg and 32.5 mg, respectively was used in the treatment of cardiovascular mortality.

Applicant's claims are drawn to a composition. It is well recognized in Patent Law that a new use of known composition does not render the composition patentable.

²⁷⁻²⁹
Therefore, the composition claims #--# are obviated under 35 U.S.C. 103 since an intended use limitation does not render the composition unobvious. See In re Skoner, 186 USPQ 80 (CCPA 1975); In re Kalm 154 USPQ 10 (CCPA 1967); In re Halley 132 USPQ 16 (CCPA 1961).

It is suggested that applicant present data to establish a synergistic combination. A review of Applicant's specification fails to provide such data commensurate with the scope of claims 27-29.

None of the elected claims 27-29 claims are allowed. Claims 11-26 remain withdrawn from prosecution.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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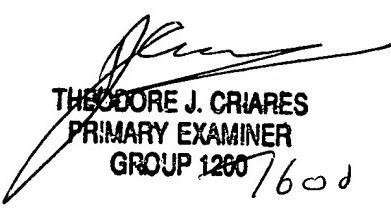
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Criares whose telephone number is (703) 308-4607. The examiner can normally be reached on Monday to Thursday from 9:00 A.M. to 5:00 P.M.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7924.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

May 7, 2001


THEODORE J. CRIARES
PRIMARY EXAMINER
GROUP 1260

760d

Day : Tuesday
Date: 5/8/2001
Time: 09:59:08

PALM INTRANET

Application Number Information

Application Number : **07/746615** Order This File Assignments

Examiner Number : **69537/JORDAN, KIMBERLY R**

Filing Date : **08/19/1991**

Group Art Unit : **1205**

Application Received : **00/00/0000**

Class/Subclass : **514/166.000**

Patent Number :

Lost Case : **NO**

Issue Date : **00/00/0000**

Interference Number :

Date of Abandonment : **12/15/1992**

Unmatched Petition : **NO**

Attorney Docket Number : **467312/465**

L&R Code : **01**

Status : **161 / ABANDONED FILE - FAILURE TO RESPOND TO AN ACTION**

Status Date : **04/16/1993**

Location : **9200/FILE REPOSITORY (FRANCONIA)**

Location Date : **06/09/1999**

Charge to Location : **/No Charge to Location Definition**

Charge to Name : **No Charge to Name**

Title of Invention :

ASPIRIN AND VITAMIN AND/OR TRACE ELEMENT COMPOSITIONS FOR THE PREVENTION AND TREATMENT OF VASCULAR DISEASE

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Info

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Day : Tuesday
Date: 5/8/2001
Time: 09:59:41

Application Number Information

Application Number : **07/317422** [Order This File](#) [Assignments](#)

Examiner Number : **66553/HENLEY III, RAYMOND J**

Filing Date : **03/01/1989**

Group Art Unit : **1205**

Application Received : **00/00/0000**

Class/Subclass : **514/159.000**

Patent Number :

Lost Case : **NO**

Issue Date : **00/00/0000**

Interference Number :

Date of Abandonment : **08/22/1990**

Unmatched Petition : **NO**

Attorney Docket Number :

L&R Code : **01**

Status : **161 / ABANDONED FILE - FAILURE TO RESPOND TO AN ACTION**

Status Date : **01/10/1991**

Location : **9200/FILE REPOSITORY (FRANCONIA)**

Location Date : **06/09/1999**

Charge to Location : **/No Charge to Location Definition**

Charge to Name : **No Charge to Name**

Title of Invention :

ASPIRIN AND VITAMIN COMPOSITION FOR THE PREVENTION AND TREATMENT OF VASCULAR DISEASE

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